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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,470	07/01/2003	Dimitri Peter Zafiroglu	SWZ-010	1592
29626 7590 04/18/2007 THE H.T. THAN LAW GROUP WATERFRONT CENTER SUITE 560 1010 WISCONSIN AVENUE NW WASHINGTON, DC 20007			EXAMINER MATZEK, MATTHEW D	
			ART UNIT	PAPER NUMBER
			1771	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/18/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/611,470

Applicant(s)

ZAFIROGLU, DIMITRI PETER

Examiner

Matthew D. Matzek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-62 and 68-91 is/are pending in the application.
- 4a) Of the above claim(s) 23-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 38-62 and 68-91 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. The amendment dated 2/2/2006 has been fully considered and entered into the Record. Independent claims 1 and 62 have been amended. The amended claims contain no new matter. Claims 1-62 and 68-91 are currently pending, but claims 23-37 have been withdrawn from prosecution. Claims 1-22, 38-62 and 68-91 are currently active. The previous rejections made in view of Fuchs et al. have been withdrawn as the applied reference fails to teach the new limitation of having the top and bottom surfaces of the adhesive layer being non-planar and follow substantially the same contour.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-8, 10, 14, 19, 20, 22, 38, 39, 44, 45, 51, 52, 62, 71, 76-80, 85, 86 and 89 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuchs et al. (US 1,817,184).

Fuchs et al. teach the creation of an embossed fabric comprising a woven fabric 9 coated with an adhesive layer facing textile layer 8 (Figure 2). Textile layer 8 may be waterproof (col. 1, lines 32-45). The two fabric layers are bonded when the adhesive layer enters fibers of both fabrics through the thermal embossment (page 1, lines 45-52). As shown in Figures 3 and 4 the top and bottom surfaces of the adhesive layer are non-planar and follow substantially the same contour because layers 8 and 9 are now non-planar and follow substantially the same contour. In a second embodiment shown in

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Figure 4 the adhesively coated and textile layers may be swapped so that textile fabric may retain its original color (page 1, lines 65-73). Claim 14 is anticipated because the fibers in the peak regions contain no adhesive and have not been embossed. Claims 51 and 52 are rejected as the embossed area forms the letter H. Claim 78 is rejected as one of the textile layers serves as the fibrous outer layer and the second textile layer serves as a backing layer.

3. Claims 1, 46, 47, 62 and 76-79 are rejected under 35 U.S.C. 102(b) as being anticipated by Bushnell (US 3,444,035).

Bushnell teaches the creation of a laminar breathable fabric comprising a knitted top layer a bottom back-up layer and an intermediate layer of adhesive. The entire laminate may be embossed under heat and pressure to produce a pattern of impressions and raised portions at the top face, imparting a three-dimensional character (col. 1, lines 11-26). The back-up layer may be either woven or knitted (col. 1, lines 59-72). As shown in Figures 2 and 2a the top and bottom surfaces of the adhesive layer are non-planar and follow substantially the same contour.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 2-5, 9, 11-13, 15-18, 21, 40-42, 53-59, 68-70, 72-75, 81-84, 87, 88, 90 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (US 1,817,184) as applied to claims 1 and 62 above, and further in view of Gillette et al. (US 2003/0232170). The

disclosure of Fuchs et al. is silent as to the use of spunlaced fabrics as a facing layer and the creation of loops upstanding from the adhesive layer.

a. Gillette et al. teach a spunlaced fabric that may be embossed with a decorative pattern and bonded to a backing layer (Figure 1). The backing layer may be a film of thermoplastic and the two layers may be bonded via thermal lamination [0024 and 25]. The backing layer may also be a nonwoven, woven fabric or knit scrim [0025]. The fibrous outer layer may have loops upstanding from the adhesive layer (claim 1). The density of the backing layer is between about 0.65-1.4 g/cc [0025]. The fibrous outer layer (spunlaced fabric) may have a density of 0.1-1.2 g/cc [0017]. The disclosed densities allow for the creation of combined densities of claims 3-5, 12, 13 and 21. The fibrous layer may have a thickness of between about 0.0010-0.0095 inches [0017] and the adhesive layer is from about 0.00025-0.010 inches [0025]. The disclosed thicknesses of the adhesive and fibrous layers allow for embossed articles of the instantly claimed thickness ratios. The spunlaced fabric may have a basis weight of greater than 0.56 oz/yd<sup>2</sup> (claim 39). The pattern limitations set forth in instant claims 51-55 are provided for in Figures 3A-3P. Optionally the film layer (backing) may be impervious to water [0025] and the backing layer may have decorative coloring (claim 31). The fibrous outer layer may also be apertured and colored [0020]. This allows for the color of the adhesive layer and/or backing layer to be exposed to show its/their color(s).

b. Since Fuchs et al. and Gillette et al. are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Gillette et al. would have been recognized in the pertinent art of Fuchs et al.

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c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Fuchs et al. with the densities, embossed patterns, and fabrics of Gillette et al. The skilled artisan would have been motivated by the creation of an aesthetically pleasing article as disclosed by Gillette et al. [0007].

d. Claim 9 is rejected as it would have been obvious at the time the invention was made to have left the top surface of the fibrous outer layer unbonded to the adhesive layer and claim 11 is rejected as it would have been obvious to have left the fibers within the elevated areas that are positioned on the bottom surface of the fibrous outer layer unbonded to the adhesive layer. By not bonding all of the fibers of the outer layer a different aesthetic would have been produced which is a primary intention of this invention.

e. Claims 56 and 57 are rejected as it would have been obvious to one of ordinary skill in the art at the time the invention was made the combined invention with the central portions removed from the composite motivated by the desire to create a more aesthetically pleasing article.

f. Claims 39 and 40 are rejected as it would have been obvious at the time the invention was made to have made the liquid impermeable layer of Gillette et al. to be either permeable or impermeable to gas based upon the functionality of the final product.

g. Claim 84 is rejected as it would have been obvious to one ordinary skill in the art at the time the invention was made to have made a backing layer with a plurality of strata and each stratum being a different color, and wherein the color of the pre-selected

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stratum is exposed on the surface area of the composite. Gillette et al. teach that the fibrous outer layer may be apertured and that fibrous layer and the backing layers may each be decoratively colored. Since aesthetics are a prevailing theme in both layers in this article it would have been obvious to have made the backing layer in the claimed manner in order to produce an aesthetically pleasing article.

5. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (US 1,817,184) as applied to claim 1 above, and further in view of Makansi (US 5,882,770). The disclosure of Fuchs et al. is silent as to the use of stitch-bonded fabrics as a facing layer.

a. Makansi teaches a fibrous sheet with its outer surface embossed with a pattern of fine grooves (Abstract). The outer fibrous sheet may be woven, stitch-bonded or knit (col. 3, lines 10-14).

b. Since Fuchs et al. and Makansi are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Makansi would have been recognized in the pertinent art of Fuchs et al.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Fuchs et al. with the fabrics of Makansi. The skilled artisan would have been motivated by the creation of an article that produces rainbow and/or hologram images on exposure to light (Abstract).

6. Claims 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (US 1,817,184) as applied to claim 1 above, and further in view of Addie et al. (US 3,924,040). The disclosure of Fuchs et al. is silent as to the use of lace fabrics as a facing layer.

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- a. Addie et al. teach the use of applying a nonwoven material to a scrim and then embossing the composite material (Abstract). For examining purposes, Examiner has interpreted the disclosed scrim as “lace” as the scrim is of an open or coarse weave (col. 1, lines 56-60). The combination of the nonwoven material and the open scrim constitute the closed and open layers, respectively.
  - b. Since Fuchs et al. and Addie et al. are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Addie et al. would have been recognized in the pertinent art of Fuchs et al.
  - c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Fuchs et al. fabrics of Addie et al. The skilled artisan would have been motivated by the creation of an article that is an improved fabric for use as a wall covering (col. 1, lines 22-25).
7. Claims 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (US 1,817,184) in view of Gillette et al. (US 2003/0232170) as applied to claim 58 above, and further in view of Kirayoglu et al. (US 4,442,161). The disclosures of Fuchs et al. and Gillette et al. are silent as to the use of spunlaced fabrics comprised of staple fibers and wood pulp.
- a. Kirayoglu et al. teach the creation of an improved liquid-barrier spunlaced fabric comprising wood pulp (Abstract) and synthetic staple length fibers (Example 2). The use of staple fibers meets the fiber length limitation of instant claim 60.



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b. Since Fuchs et al. and Kirayoglu et al. are from the same field of endeavor (i.e. fabrics), the purpose disclosed by Kirayoglu et al. would have been recognized in the pertinent art of Fuchs et al.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have made the combined invention of Fuchs et al. and Gillette et al. with the fabric of Kirayoglu et al. The skilled artisan would have been motivated by the desire to create an article with improved liquid-barrier properties (Abstract, Kirayoglu et al.).

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is 571.272.2423. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571.272.1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mdm ADM



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